

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 8096 OF 2019

Damu @ Damodhar Ramchandra Divewar

vs.

Rakesh s/o Prabhakar Upadhyay

Office Notes, Office Memorandum of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri. N. L. Jaiswal, counsel for petitioner.
Shri. Raulkar, counsel for respondent.

CORAM : MANISH PITALE J.

DATED : 20/01/2020

By this writ petition, the petitioner (original defendant) has challenged order dated 13/11/2019, passed by the Court of Civil Judge Junior Division, Saoner, whereby an application Exh.65 for issuing summons to witnesses has been rejected.

2. A perusal of the impugned order shows that the Court below has recorded that a chance had been already granted on the previous date to the petitioner and yet such an application Exh.65 had been moved. It appears that the Court below has gathered an impression that the petitioner is seeking to delay the proceedings.

3. It cannot be said strictly that the view taken by the Court below is erroneous, but only in the interest of justice, this Court is showing indulgence to the

petitioner. It is made clear that the order passed by this Court shall not be taken as a reason for the petitioner to further delay the proceedings before the Court below. The apprehension expressed by the learned counsel appearing for respondent (original plaintiff) that the proceedings before the Court below would be delayed further can be taken care of by giving suitable direction to the Court below while allowing the present petition.

4. In view of the above, the writ petition is allowed. The impugned order is quashed and set aside. The application at Exh.65 is allowed in terms of the prayers made therein.

5. The petitioner is directed not to delay the proceedings before the Court below and it is expected that the Court below shall dispose of the suit i.e. Regular Civil Suit No. 99/2013 as expeditiously as possible and in any case on or before **30th September 2020**.

JUDGE